



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,197	02/27/2004	Katsumi Takehara	58647-180	4572

7590 01/16/2008  
Kenneth L. Cage  
McDERMOTT, WILL & EMERY  
600 13th Street, N.W.  
Washington, DC 20005-3096

EXAMINER
----------

HOEKSTRA, JEFFREY GERBEN

ART UNIT	PAPER NUMBER
----------	--------------

3736

MAIL DATE	DELIVERY MODE
-----------	---------------

01/16/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/787,197	<b>Applicant(s)</b> TAKEHARA, KATSUMI	
	<b>Examiner</b> Jeffrey G. Hoekstra	<b>Art Unit</b> 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-13 and 20-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 and 06 February 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Notice of Amendment*

1. In response to the Appeal Brief filed on 10/29/2007, the current rejections of the claim(s) 14-19 is/are *withdrawn*. The following new and reiterated grounds of rejection are set forth:

### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "a correcting unit" and "a body composition computing unit" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 14-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 14-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for duplicating essential structural cooperative elements, such duplication amounting to an indeterminate scope between the structural elements. See MPEP § 2172.01. The duplicated structural elements are: the "a bioelectrical impedance computing unit", the "a correcting unit", and the "a body composition computing unit".

6. As disclosed in the specification (see at least page 32 lines 3-11 and Figure 8) "a microcomputer (CPU) ... is not only bioelectrical impedance computation means for computing a bioelectrical impedance from an applied electric current and a measured voltage but also correction means for correcting the computed bioelectrical impedance. Further, it also body composition means for computing an index related to the composition of a living body".

7. Therefore, as disclosed the "a bioelectrical impedance computing unit", the "a correcting unit", and the "a body composition computing unit" appear to be a singular microprocessor and each of the "a bioelectrical impedance computing unit", the "a

correcting unit", and the "a body composition computing unit" appear to duplicate the microprocessor structure.

8. For the purposes of examination on the merits, the Examiner notes that the claimed limitations "a bioelectrical impedance computing unit", the "a correcting unit", and the "a body composition computing unit" will be examined as a singular microprocessor with the respective functions of the "a bioelectrical impedance computing unit", the "a correcting unit", and the "a body composition computing unit".

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 14-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kamada et al (US 2001/0007924 A1, hereinafter Kamada).

11. For claims 14 and 17, Kamada discloses a body composition measuring apparatus as broadly as structurally claimed, comprising:

- an electric current applying unit (21) for applying a variable electric current to a living body (paragraphs 33 and 42);
- a voltage measuring unit (25) for measuring a voltage (paragraphs 33 and 43); and
- a programmable microprocessor (block 1) capable of being programmed to (a) compute a parameter (the bioelectrical impedance vector positively recited in paragraph 45) associated with a bioelectrical impedance of a measured body part

from the applied electric current and the measured voltage at a given frequency (paragraphs 44-47), (b) compute a correction for correcting the parameter value associated with the measured bioelectrical impedance by use of a parameter (paragraphs 11 and 14) (the ICW/ECW positively recited in paragraph 62) representing an intracellular/extracellular fluid ratio which is included in the parameter value of the bioelectrical impedance measured at a given frequency (paragraph 42), and (c) compute an index (S19) associated with a body composition based on the corrected parameter value associated with the bioelectrical impedance.

12. For claim 15, Kamada discloses a body composition measuring apparatus, wherein the given frequency is the frequency of the electric current applied to the living body for estimation of the body composition (as best seen in Figure 10) (paragraph 42).

13. For claim 16, Kamada discloses a body composition measuring apparatus, wherein the given frequency is a frequency different from the frequency of the electric current applied to the living body for estimation of the body composition (as best seen in Figure 10) (paragraph 42).

14. For claim 18, Kamada discloses a body composition measuring apparatus capable of computing the following mathematical relation: when the parameter associated with the bioelectrical impedance which has been corrected by the parameter associated with the bioelectrical impedance which represents the intracellular/extracellular fluid ratio is  $P'$ , the correction of the parameter associated with the bioelectrical impedance in the correcting unit is made in accordance with the

following correction expression:  $P' = f(P, \alpha) = (K)(P^A)(\alpha^B) + C$  wherein  $f(P, \alpha)$  is a correction function represented by parameters  $P$  and  $\alpha$ ,  $P'$  is the corrected parameter associated with the bioelectrical impedance,  $P$  is the measured parameter associated with the bioelectrical impedance,  $\alpha$  is the parameter associated with the bioelectrical impedance which represents the intracellular/extracellular fluid ratio, and  $A$ ,  $B$ ,  $C$  and  $K$  are constants.

15. For claim 19, Kamada et al discloses a body composition measuring apparatus capable of computing the following mathematical relation: the parameter  $\alpha$  associated with the bioelectrical impedance, which represents the intracellular/extracellular fluid ratio, is expressed as follows by use of a phase difference  $\phi$  between the waveform of the alternating current applied from the electric current applying means to the living body and the waveform of the voltage measured by the voltage measuring means at the time of measurement of the bioelectrical impedance:  $\alpha = 1/\phi$ .

### ***Response to Arguments***

16. Applicant's arguments with respect to claims 14-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey G. Hoekstra whose telephone number is (571) 272-7232. The examiner can normally be reached on Monday through Friday, 8:00 a.m. to 5:00 p.m. EST.

Application/Control Number:  
10/787,197  
Art Unit: 3736

Page 7

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max F. Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J.H./  
Jeff Hoekstra  
Examiner, Art Unit 3736

A handwritten signature in black ink, appearing to read 'Jeff Hoekstra', is located in the bottom right corner of the page.